

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

GARY A. TOLLEFSEN,

Appellant, Cross-Respondent

v.

VALERIE D. TOLLEFSEN,

Respondent, Cross-Appellant..

BRIEF OF RESPONDENT, CROSS - APPELLANT

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I. VALERIE'S ASSIGNMENTS OF ERROR ON CROSS APPEAL

Assignment of Error No. 1: The trial court erred by including father's Motion to Suspend Child Support filed April 19, 2010 and mother's Petition/Motion for Child Support to Continue filed May 11, 2010 as a basis for the findings and conclusions entered June 3, 2011, the subject of this appeal. (Appendix A.)

Assignment of Error No. 2: The trial court erred in entering Finding of Fact No. 4 wherein the trial court found Lila stopped attending high school in November 2009 and evidence presented by the appellant do not support the entry of such finding. (Appendix A.)

Assignment of Error No. 3: The trial court erred in entering Finding of Fact No. 5 wherein Lila Tollefsen's testimony did not clearly support the finding and may have contradicted it and therefore the facts presented by the appellant do not support the entry of such finding. (Appendix A.)

Assignment of Error No. 4: The trial court erred in entering Finding of Fact No. 6 wherein Lila Tollefsen's testimony did not clearly support the finding and may have contradicted it and therefore the evidence presented by the appellant does not support the entry of such finding. (Appendix A.)

Assignment of Error No. 5: The trial court erred in entering Finding of Fact No. 5 wherein testimony and evidence at trial did not clearly establish

this fact and therefore the findings of fact is not supported by the record.

(Appendix A.)

Assignment of Error No. 6: The trial court erred in entering Finding of Fact No. 8 wherein the court found mental health issues were not apparent at the time of entry of the 2003 Order of Child Support. (Appendix A.)

Assignment of Error No. 7: The trial court erred in entering Finding of Fact No. 10 wherein it found Mr. Tollefsen's reasons for objecting to being required to pay for the University of Phoenix tuition was appropriate and that the court would not have ordered to pay full tuition for the University of Phoenix as this issue was moot as the issue was not and not properly before the court as a controversy. (Appendix A.)

Assignment of Error No. 8: The court erred in entering Conclusion of Law No. 1 wherein the court found Mr. Tollefsen's post majority support obligation should have terminated when the child stopped attending high school in November 2009. (Appendix A.)

Assignment of Error No. 9: The court erred in entering Conclusion of Law No. 2 wherein the court found Mrs. Tollefsen failed to timely file a motion to extend post-majority, non post secondary child support, resulting in the termination of any legal obligation for Mr. Tollefsen to pay child support between November 2009 and September 2010.

(Appendix A.)

Assignment of Error No. 10: The trial court erred in entering Conclusion of Law No. 3, wherein the trial court found the 2003 child support order did not create a post secondary child support obligation because Lila Tollefsen was 11 years of age at the time of the entry of the order. (Appendix A.)

Assignment of Error No. 11: The trial court erred when it entered Conclusion of Law No. 5, wherein the court reaffirmed the post secondary education requirements of the 2003 child support order, but excused Mr. Tollefsen from paying any costs of the University of Phoenix due to the various appropriate considerations raised in Mr. Tollefsen's testimony. (Appendix A.)

Assignment of Error No. 12: The trial court erred when entering Conclusion of Law No. 6 wherein the trial court found that the father should be required to pay one-half of the tuition and fees and book expenses for any public school which Lila Tollefsen might enroll in and attend commencing September 2011. (Appendix A.)

Assignment of Error No. 13: The trial court erred in failing to make the necessary findings and failing to enter Conclusions of Law to order Mr. Tollefsen to pay Mrs. Tollefsen's reasonable attorney fees. (Appendix A.)

Assignment of Error No. 14: The trial court erred when it modified the 2003 Order of Child Support without a Summon, Petition or child support worksheets required by statute.

II. COUNTERSTATEMENT OF THE CASE

RAP 10.3(a)(4) states that a brief should contain “a fair statement of the facts and procedure relevant to the issues presented for review, without argument.” Respondent objects to the following portions of the Statement of the Case that are contained in Brief of Appellant as either not being supported by the citation to the Clerk's Papers to which the statement is attributed, or as argument which should not be included in the Statement of the Case.

1. *Objection, Brief of Appellant, Page 6.*

On page 6 of the Brief of Appellant, the following statement is made:

“Pursuant to the Order of Child Support, Gary was to pay a transfer payment of \$1,000.00 per month in child support for Lila until she reaches age 18 or graduates from high school, whichever comes last. CP 3.”

This statement ignores the fact that the order continues that “If Lila elects to pursue a post-secondary education, child support for her will continue until she turns 23 years old.” The order continues under paragraph 3.13

titled "Termination of Support." to state that support shall be paid as provided in paragraph 3.5, (CP 5, Appendix B) which paragraph contains the language first quoted above. The Statement of Facts as set forth by Gary is misleading and incomplete and therefore the conclusions are not supported by the record submitted to the Court of Appeals on review. This statement is not a fair statement of the facts and constitutes argument. The record submitted on appeal provides additional conditions of both child support termination and post secondary education expenses. Respondent asks the Court to disregard the conclusion that child support simply ends when Lila graduates or turns 18 as suggested by the appellant and rather considers the order of child support and all terms contained therein and attached hereto as Appendix A. (CP 1-7, Appendix B.)

2. Objection, Brief of Appellant, Page 6.

On page 6 of the Brief of Appellant, the following statement is made:

“No disabilities or mental illnesses of Lila were known or suspected at the time. Lila’s mental health issues were first raised to her doctor in 2006.”

Doctor Teveliet testified that Lila had been a patient of his since August of 2002 and he had prescribed her medications to address her diagnosis as being bipolar and social anxiety issues over the years as well as referring

her to several psychiatrists. (RP Pg. 71, Ln. 24 – Pg. 72, Ln 22.) The evidence cannot support Gary's statement of the case in the above quoted section of the Brief of Appellant. The evidence appears to show just the opposite of the conclusions drawn by Gary who fails to accurately cite to the record on appeal to support his Statement of the Case. The statement is not supported by the record that is submitted to the Court of Appeals on review. This statement is not a fair statement of the facts and constitutes argument. Respondent asks the Court to disregard the above-quoted portion of the Brief of Appellant, pursuant to RAP 10.7.

3. Objection, Brief of Appellant, Page 7.

On page 7 of the Brief of Appellant, the following statement is made:

“By November, 2009, by her own admission, Lila dropped out of high school. RP 132, l. 10-12.”

A quick review of RP 132 shows the court made an inquiry as to when Lila quit school and she said she was not entirely sure if it was November of 2009. She was unclear as to the actual dates of attendance for high school credit and GED that were both taken at the same school. Lila testified that she was either enrolled in GED classes or had obtained her GED in April of 2010. (RP 115.) The above quoted statement is at best a question of fact established through evidence at trial including the

testimony of Lila as referenced above. There does not appear to be any clear evidence of a time when she was not enrolled in any effort to graduate from high school or obtain her GED. The above quoted statement is not a fair statement of the facts and constitutes argument. Respondent asks the Court to disregard the above-quoted portion of the Brief of Appellant, pursuant to RAP 10.7 and consider the contradictory evidence cited above.

4. Objection, Brief of Appellant, Pages 7 and 8.

The following language is contained on pages 7-8 of the Brief of Appellant.

“Sometime after the filing of Gary’s motion in April Lila began working toward her GED. RP 149, l. 5-16.”

The above quoted statement is not supported by the record submitted to the Court of Appeals on review. Mother testified that she wasn’t sure what months when she was cross examined and in fact concluded it may have been one month. (RP 149, Lns. 5-24.) Lila wasn’t sure either. (RP 115.) Gary knew that she was attending Grays Harbor College working towards both her GED and college credits and wasn’t scheduled to graduate from high school until June 2010. (CP 14.) The above-noted statement is not a fair statement of the facts and constitutes argument.

Respondent asks the Court to disregard the above-quoted portion of the Brief of Appellant, pursuant to RAP 10.7

5. Objection, Brief of Appellant, Page 9.

The following language is contained on page 9 of the Brief of Appellant.

“The May 27, 2011 trial therefore encompassed Valerie’s request to extend post-majority support to age 23 based upon claimed mental health disability, as well as Gary’s request to review the post secondary support obligation generally as to choice of schools.”

The above quoted statement is not supported by the record submitted to the Court of Appeals on review. The appellant fails to cite any portion of the record on appeal to support this statement. A final order had been entered on August 12, 2010 to address all issues before that date. (CP 18-19.) The hearing on May 27, 2011 was to address Gary’s September 9, 2010 Motion and Affidavit Re Post Secondary Support. (CP 82.) It was only necessary for Lila to address medical issues to show that any break in post secondary education was for medical related illness mentioned in the 2003 Order of Child Support and otherwise meet the statutory and court ordered reporting and progress requirements necessary to obtain post secondary support. (CP 5.) The above-noted statement is not a fair statement of the facts and constitutes argument. Respondent asks the Court

to disregard the above-quoted portion of the Brief of Appellant, pursuant to RAP 10.7

6. Objection, Brief of Appellant, Page 10.

The following language is contained on pages 10 of the Brief of Appellant.

““Mr. Holt was of the opinion that Lila’s mental health issues should not interfere with her ability to attend college with a full course load. RP 89, l. 17-22; RP 90, l. 12-15.”

The above quoted statement is not supported by the record submitted to the Court of Appeals on review. In fact this is contradictory to the evidence presented by Mr. Holt who concluded that medical health issues and illness interfered with her schooling and were of primary concern when Lila came to see him as a referral from another psychiatrist treating the same. (RP 83, Lns. 11-15 and RP 89, Lns.2-6.) Finally, Gary acknowledges that Lila’s medical condition interferes with her education. (RP 42, Lns. 4-10.) The above-noted statement is not a fair statement of the facts and constitutes argument. Respondent asks the Court to disregard the above-quoted portion of the Brief of Appellant, pursuant to RAP 10.7

Respondent Valerie provides the following counterstatement of the case:

Appellant Gary Tollefsen (“Gary”) and Respondent, Cross-Appellant Valerie Tollefsen (“Valerie”) were divorced on February 5, 2003 and an Order of Child Support was entered on that same date. (CP 1.) The parties have two children Nathaniel and Lila. (CP 2.).

Gary paid all of his support pursuant to the 2003 Order of Child Support without dispute or court intervention of any kind until he filed a motion to suspend child support in April of 2010 and Valerie filed a Petition for Child Support to Continue. (CP 13-14.) Gary paid his child support and post secondary support for his older child in accordance with the 2003 Order of Child Support. (RP 44, Ln. 14- 17.) A hearing was held on Gary’s motion on May 10, 2010 and an order for a July 23, 201 hearing was entered (CP 16-17) which left the 2003 Order of Child Support in full force and effect. (CP 15.) On August 12, 2010 the court held an evidentiary hearing on Gary’s motion to suspend child support and Valerie’s petition for child support to continue and entered a final order. (CP 18-19.) The order withdrew Gary’s motion to suspend child support and identified the issue as moot because Lila had completed her GED. (CP18.) The order confirmed that all support obligations of the original 2003 Order of Child Support, together with the requirements of RCW 26.19.090 apply to future child support and post secondary support. (CP

18.) The order further required that Lila's post secondary education must be full time and continuous at one institution or program for support to continue.

Neither party appealed the trial court's August 12, 2010 order within the appeal period. Gary filed a Motion and Affidavit Re: Post Secondary Support on September 9, 2010. (CP 33-99.) Gary has yet to file a financial declaration or child support worksheets in support of any of his motions relating to child support or post secondary obligations. Gary has not paid any of the post secondary support ordered in the 2003 Order of Child Support.

Lila attended University of Phoenix as a full time student and held a satisfactory grade point average in order to remain in good academic standing at the University. (RP 40.) Lila provided her grade reports to Gary who had never requested them other than through his attorney. (RP 39, Ln 21 – RP 41, Ln 16; RP 43, Lns. 23-25.) Gary does not object to paying for post secondary support in accordance with the 2003 Order of Child Support, so long as he chooses which college Lila will attend. (RP 46, Lns 17 – 24.) Gary has yet to pay any of the tuition, book expenses or student fees to University of Phoenix, even though he has been ordered to

do so under the 2003 Order of Child Support. (CP 5, Lns.9-14; RP 47, Lns. 18-25.)

At trial it was not disputed that Lila had past medical health issues and illness that interfered with her schooling, which was openly acknowledged by Gary. (RP 83, Lns. 11-15 and RP 89, Lns.2-6; RP 42, Lns. 4-10.) Her medical health issues and related illness may have caused a short break in schooling at or about the time of completion of her GED, but did not violate the 2003 Order of Child Support or the conditions of the August 12, 2010 court order, as the “break”, if any, was related to her illness and allowed by the 2003 Order of Child Support. (Appendix A, Section 3.14).

Valerie has taken student loans to assist Lila in paying for her tuition and to provide a home for Lila while she attends the schooling at the University of Phoenix as a full time student. (RP 134-135; RP 143.) Lila was making satisfactory progress toward a degree from an accredited college and remained in good academic standing up to and including the time of the hearing.

Valerie has taken home equity loans to pay for post secondary expenses for Lila at the University of Phoenix. Valerie has a limited income due to her own disabilities and has a taxable income of

approximately \$10,800 per year. (RP 136, Ln.9; RP 138, Lns. 3-7.) She earned her last earned paycheck before her children were born. (RP 138, Lns. 8-11.) Gary has a taxable income of approximately \$82,000 per year and has significant assets, including, but not limited to his 401(k). (RP 38.) The trial court did not award attorneys fees or costs to either of the parties. (CP 180.)

Other than the noted objections and counterstatements made above, much of the Appellant's Statement of the Case is irrelevant, but is otherwise accepted.

III. QUESTIONS PRESENTED

1. Whether the trial court erred in modifying the 2003 order of child support when Mr. Tollefsen failed to file the petition and financial worksheets required by RCW 26.09.175? (Valerie's Assignment of Error Nos. 1-14, inclusive.)
2. Whether the trial court erred in entering findings that the legal basis for the hearing were motions filed on 4/19/10 and 5/11/10 even after the court entered a final order and Gary failed to file a timely notice of appeal? (Valerie's Assignment of Error No. 1.)

3. Whether father may extend the period to file a notice of appeal by simply injecting findings not supported by the records? (Valerie's Assignment of Error No. 1.)
4. Whether the trial court erred in denying mother attorney fees for defending a motion for modification of child support when the statute doesn't allow a motion and the court considers the financial conditions of the parties, father is intransigent and finally mother has a financial need for assistance and father has the ability to pay the fees. (Valerie's Assignment of Error No. 13.)
5. Whether the appellate court lacks jurisdiction when a party fails to timely file a notice of appeal of final orders? (Valerie's Assignment of Error Nos. 1, 13, 14.)
6. Whether the trial court erred in allowing Gary to not pay for expenses at the University of Phoenix though he was obligated to do so under the 2003 Order of Child Support, when the order was not otherwise modified and father failed to file the statutory Petition and child support worksheets? (Valerie's Assignment of Error Nos. 1-14, inclusive.)
7. Whether the trial court erred by amending the 2003 Order of Child Support to require Lila to attend a public school and reducing Gary's contribution from 100% to 50% without any findings to

support the conclusion of law and subsequent order? (Valerie's Assignment of Error Nos. 1-14, inclusive.)

8. Whether the trial court erred by eliminating post majority, non post secondary support retroactively to November 2009 absent a Petition to Modify Child Support or making any findings of fact to support the conclusions of law? (Valerie's Assignment of Error Nos. 1-14, inclusive.)
9. Whether Valerie is entitled to attorneys fees at the trial level and on appeal? (Valerie's Assignment of Errors No. 13 and 14.)

IV. STANDARD OF REVIEW

1. Modification of Child Support.

A court's decision concerning modification of child support is reviewed for an abuse of discretion. Newell v. Newell, , 72 P.3d 1130 (Div. 1 2003) (trial court reversed).

This court reviews an order on modification of child support for abuse of discretion, which occurs if the decision is manifestly unreasonable or based on untenable grounds. In re Marriage of Scanlon and Witrak, 109 Wash. App. 167, 34 P.3d 877 (Div. 1 2001), as amended on denial of reconsideration, (Dec. 19, 2001) (trial court reversed). The proper standard of review when reviewing a child support modification proceeding is whether the findings are supported by substantial evidence

and whether the trial court has made error of law that may be corrected upon appeal. In re Marriage of Stern, 68 Wash. App. 922, 846 P.2d 1387 (Div. 1 1993).

V. ARGUMENT

1. Where Gary filed one notice of appeal on June 30, 2011 the Court of Appeals lacks jurisdiction to consider the issues relating to the May 10, 2010, August 12, 2010 or October 18, 2010 orders as the notice of appeal is outside of the time period allowed for appeal under RAP 5.2. (Re Valerie's Assignment of Error Nos. 1 and 8.)

The August 12, 2010 order (CP, 18) was the final order addressing Gary's April 19, 2010 Motion to Suspend Child Support and Valerie's May 11, 2010 Petition to Continue Child Support. At common law, a final judgment (or order) was one that disposed of all of the issues as to all of the parties, as does the August 12, 2010 order in Tollefsen. Collins v. Miller, 252 U.S. 364, 40 S. Ct. 347, 64 L. Ed. 616 (1920). The October 18, 2010 order was also appealable; however neither party filed a notice of appeal within the 30 day time period allowed by RAP 5.2. RAP 5.2(a) gave both parties 30 days after entry of the May 10, 2010, August 12, 2010 and the October 18, 2010 orders time to file a notice of appeal and neither party provided timely notice of appeal of these orders. If Gary intended to appeal any of these orders he failed to file his Notice of Appeal within 30

days and instead filed the notice of appeal no less than nine months later on June 30, 2011. Where a notice of appeal is not filed within 30 days of entry of a final order or within 30 days of a timely motion made subsequent to judgment the Court of Appeals does not have jurisdiction to entertain an appeal of the order. Moore v. Wentz, 11 Wash. App. 796, 525 P.2d 290 (Div. 3 1974). The court should dismiss any appeal of the May, August or October, 2010 orders as Gary's June 30, 2011 Notice of Appeal was untimely and outside of the time period allowed for such appeal and therefore the Court of Appeals lacks jurisdiction to entertain such an appeal. The lack of jurisdiction due to Gary's failure to timely file a notice of appeal fully addresses Gary's first and second assignments of error. Valerie hereby moves to dismiss said issues on appeal and Gary's assignment of errors Nos. 1 and 2.

2. The trial court erred in modifying the 2003 order of child support when Mr. Tollefsen failed to file the petition and financial worksheets required by RCW 26.09.175. (Valerie's Assignment of Error No. 14.)

RCW 26.09.175 governs the modification of child support orders and provides:

"A proceeding for the modification of an order of child support *shall* commence with the *filing of a petition and*

worksheets. The petition shall be in the form prescribed by the administrator for the courts.” –*Emphasis Added*.

There are no provisions allowing a “motion” to modify child support orders as suggested by Gary and further the proceedings and other statutory requirements were not met in order to allow the trial court to consider relevant statutory factors of a child support modification. Gary’s refusal to comply with the 2003 Order of Child Support is the only reason and cause for this matter to have come before the court repeatedly throughout 2010. The trial court should not be allowed to modify the 2003 Order of Child Support without the filing of a Petition for Modification on the state mandatory forms, child support worksheets and the payment of a filing fee. The trial court erred in issuing Findings of Fact 8 and 10 and Conclusions of Law 1 – 3, 5 and 6 in the June 3, 2011 order, as there was no proper Petition before the trial court for consideration. (Appendix A, Pages 2 and 3.)

3. Gary may not extend the period to file a notice of appeal by simply inserting old orders as the basis of new “final order” not otherwise supported by the record. (Valerie’s Assignment of Error No. 1 and Gary’s Assignment of Error Nos. 1 and 2.)

As set forth more fully above, the 30 day period to file a notice of appeal passed on all of the orders except the June 3, 2011 order without

either party filing a notice of appeal. Gary attempted to include the previous orders as the basis of the findings of fact and conclusions of law entered on June 3, 2011 and the court erred by not removing them as a basis of the findings of fact and conclusions of law. This err of the trial court is contradicted by the evidence on record on appeal which does not substantially supported the erroneous findings of fact. Gary cannot expand the appeal period by simply inserting the prior orders into a new set of findings in an effort to get the trial court to issue a new “final” order to correct Gary’s error of not filing a timely notice of appeal.

Gary history of intransigence suggest he will blame his own attorney for not appealing the orders, however even if his attorney advised him not to appeal, attorney error and/or bad legal advice are not excuses permitting extensions of time to file an appeal. See, *e.g.*, Shumway v. Payne, 136 Wn.2d 383, 964 P.2d 349 (1998) (*en banc*) (defendant seeking writ of habeas corpus denied extension of time to move for discretionary review despite fact that counsel allegedly gave erroneous legal advice that caused defendant to miss filing deadline). In fact, extensions of time to file appeals are granted only under “extraordinary circumstances,” which is a standard that is “rarely satisfied.” *Id.* at 395; *see also* Beckman v. State, Department of Social & Health Services, 102 Wn. App. 687, 11 P.3d 313

(2000) (motion to extend time to file appeal of \$17.76 million trial court award of damages, denied where State attorney missed filing deadline); Reichelt v. Raymark Indus., Inc., 52 Wn. App. 763, 764 P.2d 653 (1988) (motion to extend time to file appeal denied despite fact that appellant's attorneys claimed they were understaffed). After all, a 'reasonably prudent attorney would be expected to know all applicable procedural rules.'

Ahmann-Yamane, LLC v. Tablet, 105 Wn. App. 103, 109, 19 P.3d 436 (attorney's failure to file petition with court within required time period constituted breach of duty to attorney's client), rev. *denied*, 144 Wn.2d 1011, 31 P. 3d 1185 (2001) *overruled on other grounds*; *see also* RPC 1.1 (lawyer required to have legal knowledge "reasonably necessary for the representation"; RPC 1.3 ("lawyer shall act with reasonable diligence and promptness in representing a client").

These orders should be removed as a basis of the June 3, 2011 order and Gary's related issues on appeal should be dismissed as he failed to file a timely notice of appeal.

4. Gary may be ordered to pay greater support than he would otherwise be required by law including when he argues the order is void ab initio. (Re Valerie's Assignment of Error Nos. 1-14, inclusive and Gary's Assignment of Error Nos. 1-3, inclusive)

The February 5, 2003 Order of Child Support is a negotiated agreed order entered after much dispute between the parties who were each represented by adequate counsel. Washington State courts have often said they will enforce an agreement between parents to provide greater support than would otherwise be required by law, so long as the agreement is clearly established. Riser v. Riser, 7 Wn. App. 647 (1972); O’Neal v. Morris, 7 Wn.App. 157 (1972); Bauer v. Bauer, 5 Wn.App. 781 (1971); Knittle v. Knittle, 2 Wn.App. 208 (1970). The Riser court determined the father may agree to support and maintain his children after his otherwise existing legal duty to do so terminates and such agreement will be enforced so long as it is clearly spelled out in an order. The Tollefsen 2003 Order of Child Support is clear and unambiguous as is evidenced by the parties easily applying the order to their older child in similar circumstances without question or court intervention. The plain language of the order provides that Mr. Tollefsen will pay \$1000.00 of monthly child support until Lila reaches age 18 or graduates from high school and will continue to age 23 if Lila elects to pursue a postsecondary education. The order clearly states under section 3.14 that in the event that the children pursue a postsecondary education then, in addition to the child support Mr. Tollefsen shall pay the tuition, book expenses and student fees, if any and continues by ordering, “If a child opts to take a

“break,” and not continue his/her postsecondary education for a reason other than illness then the father is not responsible to resume his payments for tuition, book expenses and student fees.” Appendix B.

This position was argued in Valerie’s trial memorandum, CP 168. Gary went so far as to misrepresent to this court that Valerie and Lila claim the order is ambiguous in this regard, which is clearly untrue, but the only way for Gary to even suggest the 2003 Order of Child Support needs interpretation. Brief of Appellant Page 16. The 2003 Order of Child Support is **not** ambiguous and requires **no** court interpretation.

Gary’s reliance upon the case law cited in his appellate brief is misplaced. Even taken together, Studebaker, Childers, Gimlett and RCW 26.09.170 do NOT mean that an order can be modified based upon the unforeseen conditions or eligibility of a child at the time the order was entered, when in particular the order is agreed, not ambiguous and was negotiated between parties each represented by counsel. See, Marriage of Studebaker, 36 Wn. App. 815 (1984); Childers v. Childers, 89 Wn.2d 592 (1978); Gimlett v. Gimlett, 95 Wn.App. 699 (1981). In each of Gary’s cited cases the court first found ambiguity or a change of circumstances to modify the orders. None of the cases Gary cited were orders such as those in the Tollefsen case, which are unambiguous, do not need court interpretation and the agreement is clearly established in writing.

5. The Trial Court must award Valerie attorneys fees and costs at the trial level and in the appellate proceedings. (Re Valerie's Assignment of Error Nos. 13 and 14.)

Fees are mandatory in an action to enforce a support order under RCW 26.18.160. Valerie's Motion and Declaration to Present Oral Testimony on Motion for Payment of Child Support and Postsecondary Support was brought consistent with RCW 26.18.160. If Gary provides authority to justify a child support modification without filing the statutory petition for modification of child support pursuant to RCW 26.09.175; then the court must consider the financial resources of the parties before awarding fees related to his motion or "petition" to modify child support. Ambrose v. Ambrose, 67 Wn.App. 103, 834 P.2d 101 (1992). RCW 26.09.140 provides as follows:

"The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorneys' fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorneys' fees in addition to statutory costs."

The trial court considered the financial condition of the parties and their need and ability to pay fees. Valerie was living on a limited income of approximately \$10,800 per year at the time of the hearings and still today and due to her disabilities has not been gainfully employed since before her children were born. (RP 136; RP 138.) Gary was gainfully employed with a long work history and a substantially higher income and ability to pay the attorney fees and costs Valerie needs to represent herself in this action. Gary failed to file any of the statutory financial documents for modification of child support orders, however testified that he made more than \$82,000.00 per year. (RP 38.)

Valerie is entitled to attorneys' fees in addition to the statutory basis set forth above. Regardless of whether an action is for enforcement or modification, if a parent is intransigent, the court may award attorney fees without considering the parties' financial status. Schumacher v. Watson, 100 Wn.App. 208 (2000). Intransigence is the state of being uncompromising, as filing frivolous motions, harassing the other parent, and causing the other parent's legal expenses to increase. Id. at 217. Gary's refusal to pay the court ordered post secondary support and insistence on controlling what school Lila attends is the only reasons these motions were brought to the trial court. Gary continues to concentrate on how he feels his personal relationship has developed with his daughter and

his control of where she goes to school, even addressing these issues in his appellate brief without any citations to make these issues relevant to his appeal. Gary has had the issue of child support and post secondary support hanging over Valerie and Lila's heads for nearly two years almost continually. Each time the trial court denied his motion Gary brought the issue back to court on a new motion or finally brought this appeal of the last order while attempting to relate back to all prior orders decided by the trial court long ago. In the meantime he has succeeded in not paying for any of the post secondary support he is ordered to pay by the 2003 Order of Child Support. Gary even testified that he would have no problem paying for post secondary support so long as he approved of the college. (RP 46, Lns 17 – 24.) Gary has yet to pay any of the tuition, book expenses or student fees to University of Phoenix, even though he has been ordered to do so under the 2003 Order of Child Support. (CP 5, Lns.9-14; RP 47, Lns. 18-25.) Gary's paranoid approach to each issue in this case, as well as his constant efforts to control and berate his daughter has substantially increased the costs of this litigation. Gary should be ordered to pay all of Valerie's reasonable attorney fees and costs incurred in this cause of action, upon her filing of a cost bill and affidavit of reasonable attorney fees at the trial and appellate level. Whether the trial court erred in failing to find intransigence or not the trial court should

have issue an award of attorney fees pursuant to RCW 26.09.140. Valerie is in terrible financial condition due to her disabilities and yet she is the parent taking all of the post secondary debt while this action is pending.

Valerie has submitted an affidavit to the Court of Appeals in her response to Gary's motion for stay that declares her financial condition is a poor one and more fully how those circumstances impact her ability to pay for her attorney fees. Her medical conditions have not gone away and she remains in need of assistance to pay her attorneys fees and costs at both the trial and appellate court. Valerie seeks an award of attorney's fees and costs for both the trial and appellate court proceedings. *See* RCW 26.09.140, set forth in part above.

6. It is not necessary for Valerie to petition for post secondary support when post secondary support is ordered in the original order of child support.. (Re Valerie's Assignment of Error No. 4.)

RCW 26.09.170 (3) provides:

“Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.”- Emphasis added..

In the 2003 Order of Child Support there is an agreed written order that expressly provides for post secondary support for Lila. The provision requiring post secondary support is not terminated by emancipation or

reaching the age of 18 as suggested by Gary in his Appellate Brief and actually allows certain breaks from post secondary education if for illness. Gary argues this provision contemplated only the older son of Gary and Valerie however the 2003 Order of Child Support provides in part as follows:

“ 3.5 TRANSFER PAYMENT. The obligor parent shall pay \$1,000.00 per month in child support **for Lila** until **she** reaches age 18 or graduates from high school, whichever comes last. If **Lila** elects to pursue a post secondary education, child support **for her** will continue until **she** turns 23 years old.”

and further provides;

“3.14 POST SECONDARY EDUCATIONAL SUPPORT. In the event that the **children** pursue a post-secondary education then, in addition to support provided for in paragraph 3.5, Obligor parent shall pay the tuition, book expenses and student fees, if any **for both children**. If a child opts to take a “break” and not continue **his/her** post secondary education for a reason other than illness then the father is not responsible to resume his payments for tuition, book expenses and student fees.”

-Emphasis added.

A plain reading of the language contained in the order makes it clear the language was intended to apply to both of the children and to argue otherwise is one more example of Gary’s intransigence.

VI. CONCLUSION

The trial court order is not supported by the conclusions of law and many of the findings of fact are not supported by the evidence at trial. The

findings appropriately found Lila was enrolled in the University of Phoenix and has been attending with satisfactory grades since September 2010. The findings also appropriately found Lila Tollefsen suffers from mental health issues. The rest of the findings relate to issues not appropriately before the trial court, or are inadequately supported by the evidence at trial. The court failed to make findings or conclusions of law to support an award of attorneys' fees and costs to Valerie.

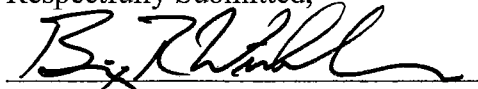
Gary failed to file the statutorily required Petition for Modification of Child Support or the mandatory child support worksheets. He further failed to issue a summons or pay the filing fee for a modification. The trial court erred by granting any request for modification to the 2003 Order of Child Support. The 2003 Order of Child Support is a clearly written agreement signed by each of the parties and each of their attorneys who represented their interests in negotiating the terms of the 2003 order. The 2003 Order of Child Support is not ambiguous and does not require court interpretation.

The trial court considered the financial resources of the parties and should have ordered Gary to pay Valerie's attorneys fees and costs. Valerie is entitled to fees at both the trial and appellate level by statute, but also due to Gary's intransigence as evidenced by the record.

The trial court abused its discretion and the evidence at trial does not support the findings the court relied upon to make the errors of law more fully set forth herein. These errors can be corrected by the Court of Appeals, by this court dismissing any appeal of the orders not before the court due to the lack of jurisdiction and Gary's failure to file a timely notice of appeal; by correcting the trial court decision to make any modifications to the 2003 Order of Child Support and ordering Gary to pay Valerie's attorneys fees and costs at both the trial and appellate level. Finally, Valerie respectfully requests remand for proceedings to establish a judgment for Valerie and against Gary for any costs Valerie paid to the University of Phoenix for Lila's attendance and for the related attorneys fees and costs incurred on remand.

Dated: February 22, 2012.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "B. Winkelman", written over a horizontal line.

Benjamin R. Winkelman, #33539
Attorney for Respondent, Cross-
Appellant, Valerie Tollefsen
P. O. Box 700, 813 Levee Street
Hoquiam, WA 98550 360-532-5780

Appendix A

FILED
GRAYS HARBOR COUNTY
C. BROWN, CLERK

2011 JUN -3 PM 2:25

Superior Court of Washington County of GRAYS HARBOR

In re:

VALERIE TOLLEFSEN,

Petitioner,

and

GARY TOLLEFSEN,

Respondent.

No. 02-3-00146-7

**Findings/Conclusions on
Motions re: Child Support
and Order Re Child Support
(FNFL)**

I. Basis

This matter came before the court on the father's Motion to Suspend Child Support filed April 19, 2010, the mother's Petition/Motion for Child Support to Continue filed May 11, 2010, and the father's Motion and Affidavit Re: Post Secondary Support filed September 9, 2010.

These findings and conclusions are based upon a contested hearing at which testimony was presented by: Gary Tollefsen, Art Oestrich, Dr. Craig Teveliet, Robert Holt, Lisa Tollefsen, and Valerie Tollefsen.

II. Findings

Based on the case record, the court **finds** and **concludes** that:

2.1 Jurisdiction

The court has proper jurisdiction over the parties and subject matter of this action for the reasons that follow:

There is a Washington Order of Child Support.

ORIGINAL

2.2 Findings of Fact

Based upon the testimony and evidence presented at trial, the court makes the following Findings of Fact:

1. The original child support order herein was entered on February 5, 2003 and has not previously been modified.
2. The subject minor child, Lila Tollefsen, was 11 years of age at the time of entry of the 2003 Order of Child Support.
3. Lila Tollefsen turned 18 years of age in August 2009.
4. By her own testimony, Lila Tollefsen stopped attending high school in November 2009.
5. By her own testimony, Lila Tollefsen believed she had completed her GED by April 2010 and did not take GED classes thereafter.
6. Between November 2009 and September 2010, Lila Tollefsen was not attending or enrolled in any post secondary educational institution on a full time basis.
7. During the pendency of this matter, Gary Tollefsen has continued to pay at least his \$1,000.00 regular monthly, non-post secondary child support obligation, at first voluntarily, and then pursuant to temporary court orders.
8. Valerie Tollefsen has presented evidence that Lila Tollefsen has suffered from mental health issues which were not apparent at the time of entry of the original child support order.
9. In September 2010 Lila Tollefsen enrolled in the University of Phoenix, on-line classes, which she has been attending since with satisfactory grades.
10. Gary Tollefsen was afforded no participation opportunity in this choice of institutions. Gary Tollefsen objects to being required to pay for the University of Phoenix for several reasons stated in his testimony. The court finds Mr. Tollefsen's reasons to be entirely appropriate, and the court would not have ordered Mr. Tollefsen to pay full tuition for the University of Phoenix.

11. Lila Tollefsen is in need of medical insurance coverage and Gary Tollefsen has coverage available so long as he is obligated to support Lila Tollefsen.

III. Conclusions

3.1 Conclusions of Law

From the foregoing Findings of Fact, the Court enters the following Conclusions of Law:


1. Gary Tollefsen's obligation to pay post majority, non post-secondary child support should have properly terminated when the minor child stopped attending high school in November 2009.
2. Valerie Tollefsen's did not timely file a motion to extend post majority, non post-secondary child support, with the result that Gary Tollefsen had no legal obligation to pay current child support of any kind between November 2009 and at least September 2010.
3. The 2003 child support order did not properly create a post-secondary child support obligation due to the age of Lila Tollefsen at the time of entry of that order, 11 years of age.
4. It is in the best interest of child to remain covered by the father's medical insurance and to pursue her further education.
5. The post-secondary education requirements of the original child support order are reaffirmed, but the father should not be required to pay any of the cost of the University of Phoenix due to the various appropriate considerations raised in his testimony.
6. The father should be required to pay one-half of the tuition and fees and book expenses for any public school which Lila Tollefsen might enroll in and attend commencing September 2011.

IV. ORDER

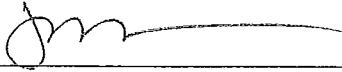
4.1 Order of the Court

1. The Conclusions of Law as set forth in Paragraph 3.1 herein, subsections 1 through 6, are hereby adopted as the order of the court.
2. Each party is responsible for their own costs and attorney fees except as previously ordered herein.

Dated: _____


Judge Gordon Godfrey

1 Presented by:
2 MICHEAU & ASSOCIATES
3 Attorneys for Respondent



4 JACK B. MICHEAU /WSBA No. 13784

Approved for entry: *As to form*
Notice of presentation waived:



BENJAMIN WINKELMAN/WSBA #33539
Attorney for Petitioner

Appendix B

FILED
IN THE OFFICE
OF COUNTY CLERK
GRAYS HARBOR CO. WA.

'03 FEB -5 A11 :44

CHERYL BROFFI
COUNTY CLERK

SCANNED
Date FEB 6 2003

SUPERIOR COURT OF WASHINGTON COUNTY OF GRAYS HARBOR

In re the Marriage of:

VALERIE DAWN TOLLEFSEN

Petitioner,

and

GARY A. TOLLEFSEN

Respondent.

NO. 02-3-00146-7

ORDER OF CHILD SUPPORT
(ORS)

Clerk's Action Required

030560

I. JUDGMENT SUMMARY

Does not apply.

II. BASIS

2.1 TYPE OF PROCEEDING.

This order is entered pursuant to: a decree of dissolution, legal separation or a declaration of invalidity.

2.2 CHILD SUPPORT WORKSHEET.

The child support worksheet which has been approved by the court is attached to this order and is incorporated by reference or has been initialed and filed separately and is incorporated by reference.

2.3 OTHER: None

III. FINDINGS AND ORDER

IT IS ORDERED that:

ORDER OF CHILD SUPPORT (ORS) - Page 1 of 7
WPF DR 01.0500 (6/2002) - RCW 26.09.175; 26.26.132(5)

MICHEAU & SAMUEL
ATTORNEYS AT LAW
106 F STREET . PO BOX U
COSMOPOLIS, WA 98537
PH (360)532-7473 • FAX (360)538-0204
RAYMOND 360-942-3255 ELMA 360-482-3866

Handwritten signature/initials.

3.1 CHILDREN FOR WHOM SUPPORT IS REQUIRED.

<u>Name</u>	<u>Age</u>
LILA TOLLEFSEN	11
NATE TOLLEFSEN	20

3.2 PERSON PAYING SUPPORT (OBLIGOR).

Name: GARY TOLLEFSEN
Birth date: 2/11/48
Service Address: P. O. Box 1951
Aberdeen, WA 98520
Driver's Lic. No: TOLLEGA529CJ

THE OBLIGOR PARENT MUST IMMEDIATELY FILE WITH THE COURT AND THE WASHINGTON STATE CHILD SUPPORT REGISTRY, AND UPDATE AS NECESSARY, THE CONFIDENTIAL INFORMATION FORM REQUIRED BY RCW 26.23.050.

THE OBLIGOR PARENT SHALL UPDATE THE INFORMATION REQUIRED BY PARAGRAPH 3.2 PROMPTLY AFTER ANY CHANGE IN THE INFORMATION. THE DUTY TO UPDATE THE INFORMATION CONTINUES AS LONG AS ANY MONTHLY SUPPORT REMAINS DUE OR ANY UNPAID SUPPORT DEBT REMAINS DUE UNDER THIS ORDER.

Monthly Net Income: \$ 4,313.68.

3.3 PERSON RECEIVING SUPPORT (OBLIGEE):

Name : VALERIE TOLLEFSEN
Birth date: 4/16/55
Service Address: 314 West 4th Street
Aberdeen, WA 98520
Driver's Lic. No: TOLLEVD457JW

THE OBLIGEE PARENT MUST IMMEDIATELY FILE WITH THE COURT AND THE WASHINGTON STATE CHILD SUPPORT REGISTRY AND UPDATE AS NECESSARY THE CONFIDENTIAL INFORMATION FORM REQUIRED BY RCW 26.23.050.

1 THE OBLIGEE PARENT SHALL UPDATE THE INFORMATION REQUIRED BY
2 PARAGRAPH 3.3 PROMPTLY AFTER ANY CHANGE IN THE INFORMATION.
3 THE DUTY TO UPDATE THE INFORMATION CONTINUES AS LONG AS ANY
4 MONTHLY SUPPORT REMAINS DUE OR ANY UNPAID SUPPORT DEBT
5 REMAINS DUE UNDER THIS ORDER.

6 Monthly Net Income: \$ 945.25

7 The obligor may be able to seek reimbursement for day care or special child rearing
8 expenses not actually incurred. RCW 26.19.080.

9 3.4 SERVICE OF PROCESS.

10 SERVICE OF PROCESS ON THE OBLIGOR AT THE ADDRESS
11 REQUIRED BY PARAGRAPH 3.2 OR ANY UPDATED ADDRESS, OR ON
12 THE OBLIGEE AT THE ADDRESS REQUIRED BY PARAGRAPH 3.3 OR
13 ANY UPDATED ADDRESS, MAY BE ALLOWED OR ACCEPTED AS
14 ADEQUATE IN ANY PROCEEDING TO ESTABLISH, ENFORCE OR
15 MODIFY A CHILD SUPPORT ORDER BETWEEN THE PARTIES BY
16 DELIVERY OF WRITTEN NOTICE TO THE OBLIGOR OR OBLIGEE AT
17 THE LAST ADDRESS PROVIDED.

18 3.5 TRANSFER PAYMENT.

19 The obligor parent shall pay \$ 1,000.00 per month in child support for Lila until she
20 Reaches age 18 or graduates from high school, whichever comes last. If Lila elects
21 to pursue a post-secondary education, child support for her will continue until she
22 turns 23 years old.

23 Other: The father agrees that in addition to his support obligation for minor child,
24 Lila, he will pay \$490 per month for the support of Nathaniel Tollefsen until
25 he reaches age 23. In the event that Nathaniel is entitled to and receives
26 Social Security Disability income the child support for Nathaniel shall ~~decrease by half~~ terminate. Nathaniel shall be able to make the decision to apply for
Social Security Disability income without pressure from either party. In the
event that Nathaniel moves from his mother's residence payments may be
made directly to Nathaniel.

27 THE OBLIGOR PARENT'S PRIVILEGES TO OBTAIN OR MAINTAIN A
28 LICENSE, CERTIFICATE, REGISTRATION, PERMIT, APPROVAL, OR
29 OTHER SIMILAR DOCUMENT ISSUED BY A LICENSING ENTITY
30 EVIDENCING ADMISSION TO OR GRANTING AUTHORITY TO ENGAGE
31 IN A PROFESSION, OCCUPATION, BUSINESS, INDUSTRY,
32 RECREATIONAL PURSUIT, OR THE OPERATION OF A MOTOR
33 VEHICLE MAY BE DENIED OR MAY BE SUSPENDED IF THE OBLIGOR
34 PARENT IS NOT IN COMPLIANCE WITH THIS SUPPORT ORDER AS

MICHEAU & SAMUEL

ATTORNEYS AT LAW

106 F STREET . PO BOX U

COSMOPOLIS, WA 98537

PH (360)532-7473 • FAX (360)538-0204

RAYMOND 360-942-3255 ELMA 360-482-3866

1 **PROVIDED IN CHAPTER 74.20A REVISED CODE OF WASHINGTON.**

2 3.6 **STANDARD CALCULATION.**

3 \$882.32 per month for Lila.

4 3.7 **REASONS FOR DEVIATION FROM STANDARD CALCULATION.**

5 The child support amount ordered in paragraph 3.5 deviates from the standard
6 Calculation for the following reasons:

7 The parties agreed to deviation.

8
9 3.8 **REASONS WHY REQUEST FOR DEVIATION WAS DENIED.**

10 Does not apply because a deviation was ordered.

11 3.9 **STARTING DATE AND DAY TO BE PAID.**

12 Starting Date: 2/2003
13 Day(s) of the month support is due: 1st of each month

14 3.10 **INCREMENTAL PAYMENTS.**

15 Does not apply.

16 3.11 **HOW SUPPORT PAYMENTS SHALL BE MADE.**

17 Select *either* Enforcement and Collection *or* Payment Processing Only:

18 Payment processing only: The Division of Child Support does not provide
19 support enforcement services for this case. Support payments shall be made
20 to:

21 Washington State Support Registry
22 P. O. Box 45868
23 Olympia, WA 98504
24 Phone: 1-800-922-4306 or
25 1-800-442-5437
26 (DCS will process payments but will not take any collection action.)

25 A party required to make payments to the Washington State Support Registry will not
26 receive credit for a payment made to any other party or entity. The obligor parent
 shall keep the registry informed whether he or she has access to health insurance
 coverage at reasonable cost and, if so, to provide the health insurance policy

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1 information.

2 3.12 WAGE WITHHOLDING ACTION.

3 Wage withholding, by notice of payroll deduction or other income withholding action
4 under Chapter 26.18 RCW or Chapter 74.20A RCW, without further notice to the
5 obligor, is delayed until a payment is past due, because the parties have reach
6 a written agreement which the court approves that provides for an alternate
arrangement..

7 3.13 TERMINATION OF SUPPORT.

8 Support shall be paid as provided in paragraph 3.5.

9 3.14 POST SECONDARY EDUCATIONAL SUPPORT.

10 In the event that the children pursue a post-secondary education then, in addition to
11 support provided for in paragraph 3.5, Obligor parent shall pay the tuition, book
12 expenses and student fees, if any, for both children. If a child opts to take a "break,"
13 and not continue his/her post secondary education for a reason other than illness then
14 the father is not responsible to resume his payments for tuition, book expenses and
student fees..

15 3.15 PAYMENT FOR EXPENSES NOT INCLUDED IN THE TRANSFER PAYMENT.

16 Does not apply because all payments, except medical, are included in the transfer
17 payment.

18 3.16 PERIODIC ADJUSTMENT.

19 Does not apply.

20 3.17 INCOME TAX EXEMPTIONS.

21 Tax exemptions for the children shall be allocated as follows:
22 to the father.

23 3.18 MEDICAL INSURANCE FOR THE CHILDREN LISTED IN PARAGRAPH 3.1.

24 The parent below shall maintain or provide health insurance coverage if coverage that
25 can be extended to cover Nate and Lila is or becomes available to that parent through
26 employment or is union-related and the cost of such coverage does not exceed
\$116.47 (25 percent of that parent's basic child support obligation. See Worksheet
Line 7.)

Father

The parent below is not obligated to provide health insurance coverage:

Mother

This parent is not obligated to provide health insurance coverage because the other parent provides insurance coverage

A parent who is required under this order to provide health insurance coverage is liable for any covered health care costs for which that parent receives direct payment from an insurer.

A parent who is required under this order to provide health insurance coverage shall provide proof that such coverage is available or not available within 20 days of the entry of this order to the physical custodian or the Washington State Support Registry if the parent has been notified or ordered to make payments to the Washington State Support Registry.

If proof that health insurance coverage is available or not available is not provided within 20 days, the obligee or the Department of Social and Health Services may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under Chapter 26.18 RCW.

3.19 EXTRAORDINARY HEALTH CARE EXPENSES.

The OBLIGOR shall pay 100% of extraordinary health care expenses (the obligor's proportional share of income from the Child Support Schedule Worksheet, line 6), if monthly medical expenses exceed \$ 30.45 (5% of the basic support obligation from Worksheet line 5).

3.20 BACK CHILD SUPPORT.

No back child support is owed at this time.

3.21 BACK INTEREST.

No back interest is owed at this time.

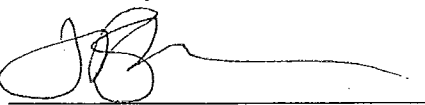
3.22 OTHER: None

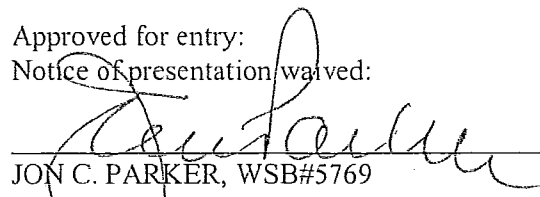
1 Dated: 7-25, 2003

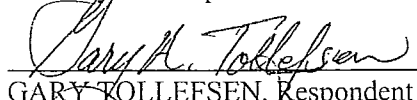

Judge/Commissioner

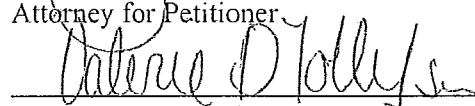
2
3 Presented by:

Approved for entry:
Notice of presentation waived:

4 
5 JACK B. MICHEAU, WSB#13784
6 Attorney for Respondent


JON C. PARKER, WSB#5769
Attorney for Petitioner

7 
8 GARY TOLLEFSEN, Respondent


VALERIE TOLLEFSEN, Petitioner

Washington State Child Support Schedule Worksheets (CSW)

Mother: Valerie Tollefsen

Father: Gary Tollefsen

County: GRAYS HARBOR

Superior Court Case Number: 02-3-00146-7

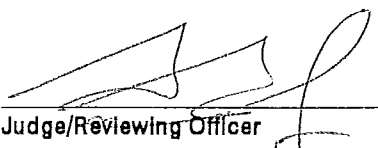
CHILDREN AND AGES: Lila, 11			
PART I: BASIC SUPPORT OBLIGATION			
1. GROSS MONTHLY INCOME		FATHER	MOTHER
a.	Wages and Salaries	\$6,923.52	-
b.	Interest and Dividend Income	-	-
c.	Business Income	-	-
d.	Spousal Maintenance Received	-	\$1,000.00
e.	Other Income	-	-
f.	TOTAL GROSS MONTHLY INCOME (add Lines 1a through 1e)	\$6,923.52	\$1,000.00
2. MONTHLY DEDUCTIONS FROM GROSS INCOME			
a.	Income Taxes (Federal and State)	\$843.18	\$54.75
b.	FICA/(Soc Sec + Medicare)/Self-Emp Taxes	\$434.90	-
c.	State Industrial Insurance Deductions	\$131.76	-
d.	Mandatory Union/Professional Dues	\$200.00	-
e.	Pension Plan Payments	-	-
f.	Spousal Maintenance Paid	\$1,000.00	-
g.	Normal Business Expenses	-	-
h.	TOTAL DEDUCTIONS FROM GROSS INCOME (add Lines 2a through 2g)	\$2,609.84	\$54.75
3. MONTHLY NET INCOME (Line 1f minus Line 2h)		\$4,313.68	\$945.25
4. COMBINED MONTHLY NET INCOME (Line 3 amounts combined) (If Line 4 is less than \$600, skip to Line 7.)		\$5,258.93	
5. BASIC CHILD SUPPORT OBLIGATION: Combined --> Lila \$776.00		\$776.00	

6. PROPORTIONAL SHARE OF INCOME (Each number on Line 3 divided by Line 4)	FATHER .820	MOTHER .180
7. EACH PARENT'S BASIC CHILD SUPPORT OBLIGATION (Each number on Line 6 times Line 5) (If Line 4 is less than \$800, enter each parent's support obligation of \$25 per child. Number of children: 1. (Skip to Line 15a and enter this amount.)	\$636.32	\$139.68
PART II: HEALTH CARE, DAY CARE, AND SPECIAL CHILD REARING EXPENSES		
8. HEALTH CARE EXPENSES		
a. Children's Monthly Health Insurance	-	-
b. Children's Uninsured Monthly Health Care	-	-
c. Total Monthly Health Care Expenses (Line 8a plus Line 8b)	-	-
d. Combined Monthly Health Care Expenses (Add father's and mother's totals from line 8c)		\$.00
e. Maximum Ordinary Monthly Health Care (Line 5 times .05)		\$38.80
f. Extraordinary Monthly Health Care (Line 8d minus Line 8e)		\$.00
9. DAY CARE AND SPECIAL CHILD REARING EXPENSES		
a. Day Care Expenses	-	-
b. Education Expenses	-	\$300.00
c. Long Distance Transportation Expenses	-	-
d. Other Special Expenses (describe)		
	-	-
	-	-
	-	-
e. TOTAL DAY CARE AND SPECIAL EXPENSES (Add Lines 9a through 9d)	-	\$300.00
10. COMBINED MONTHLY TOTAL DAY CARE & SPECIAL EXPENSES (Combine amounts on Line 9e)		\$300.00
11. TOTAL EXTRAORDINARY HEALTH CARE, DAY CARE, & SPECIAL EXPENSES (Line 8f plus Line 10)		\$300.00
12. EACH PARENT'S OBLIGATION FOR EXTRAORDINARY HEALTH CARE, DAY CARE, AND SPECIAL EXPENSES (Multiply each number on Line 6 by Line 11)	\$246.00	\$54.00
PART III: GROSS CHILD SUPPORT OBLIGATION		
13. Gross Child Support Obligation (Line 7 plus Line 12)	\$882.32	\$193.68
PART IV: CHILD SUPPORT CREDITS		
14. CHILD SUPPORT CREDITS		
a. Monthly Health Care Expenses Credit	-	-
b. Day Care and Special Expenses Credit	-	\$300.00
c. Other Ordinary Expense Credit (Describe)		
	-	-
	-	-
	-	-
d. TOTAL SUPPORT CREDITS (Add Lines 14a through 14c)	-	\$300.00

PART V: STANDARD CALCULATION/Presumptive Transfer Payment		
15. Standard Calculation	FATHER	MOTHER
a. Amount from line 7 if line 4 is below \$600. Skip to Part VI.	-	-
b. Line 13 minus line 14d, if line 4 is above \$600 (see below if appl.)	\$882.32	-\$106.32
Limitation Standards Adjustments		
c. Amount on Line 15b adjusted for 45% net income limitation	-	-
d. Amount on Line 15b adjusted to meet need standard limitation	-	-
e. Enter lowest amount of lines 15b, 15c, 15d	\$882.32	-\$106.32
PART VI: ADDITIONAL FACTORS FOR CONSIDERATION		
16. Household Assets	FATHER'S	MOTHER'S
(Present estimated value of all major assets)	HOUSEHOLD	HOUSEHOLD
a. Real Estate	-	-
b. Stocks & Bonds	-	-
c. Vehicles	-	-
d. Boats	-	-
e. Pensions/ IRAs/ Bank Accounts	-	-
f. Cash	-	-
g. Insurance Plans	-	-
h. Other	-	-
	-	-
	-	-
	-	-
17. Household Debt		
(List liens against household assets, extraordinary debt.)		
a.	-	-
b.	-	-
c.	-	-
d.	-	-
e.	-	-
f.	-	-
18. Other Household Income		
a. Income Of Current Spouse		
(If not the other parent of this action)		
Name	-	-
Name	-	-
b. Income Of Other Adults In Household		
Name	-	-
Name	-	-
c. Income Of Children		
(If considered extraordinary)		
Name	-	-
Name	-	-
d. Income From Child Support		
Name	-	-
Name	-	-

Other Household Income (continued)	FATHER'S HOUSEHOLD	MOTHER'S HOUSEHOLD
e. Income From Assistance Programs Program _____ Program _____	- -	- -
f. Other Income (describe) _____ _____	- -	- -
19. Non-Recurring Income (describe) _____ _____	- -	- -
20. Child Support Paid for Other Children Name/Age: _____ Name/Age: _____ Name/Age: _____	- - -	- - -
21. Other children Living In Each Household (First names and ages)		
22. Other Factors for Consideration		
Other factors for consideration (continued)		

Signature and Dates			
I declare, under penalty of perjury under the laws of the State of Washington, the information contained in these worksheets is complete, true, and correct.			
_____ Mother's Signature		_____ Father's Signature	
_____ Date		_____ Date	
_____ City		_____ City	



 Judge/Reviewing Officer

 Date

Worksheet certified by the State of Washington Administrator for the Courts.

PARKER & WINKELMAN LAW OFFICE

February 22, 2012 - 4:35 PM

Transmittal Letter

Document Uploaded: 423341-Respondent Cross-Appellant's Brief.pdf

Case Name: Tollefsen v. Tollefsen

Court of Appeals Case Number: 42334-1

Is this a Personal Restraint Petition? ☐ Yes ☒ No

The document being Filed is:

- ☐ Designation of Clerk's Papers ☒ Supplemental Designation of Clerk's Papers
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- ☐ Motion: _____
- ☐ Answer/Reply to Motion: _____
- ☒ Brief: Respondent Cross-Appellant's
- ☐ Statement of Additional Authorities
- ☐ Cost Bill
- ☐ Objection to Cost Bill
- ☐ Affidavit
- ☐ Letter
- ☐ Copy of Verbatim Report of Proceedings - No. of Volumes: _____
Hearing Date(s): _____
- ☐ Personal Restraint Petition (PRP)
- ☐ Response to Personal Restraint Petition
- ☐ Reply to Response to Personal Restraint Petition
- ☐ Other: _____

Sender Name: Colleen Williamsen - Email: **colleen@pjplaw.com**

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